

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ADIL SHAFI.,

Counter-Plaintiff/ Third Party Plaintiff,

v.

FREDERICK WEIDINGER and
BRAINTECH, INC.,

Third Party Defendant/ Counter-Defendant.

Hon. Victoria A. Roberts

Case No. 09-10454

ORDER

This matter is before the Court on Shafi's Amended Motion in Limine to preclude Braintech from raising any issues in defense of Shafi's employment claims which were raised in Braintech's previously dismissed complaint. (Doc. 109). Shafi says the doctrines of law of the case, res judicata, and collateral estoppel preclude Braintech from asserting any of the claims or allegations in the dismissed complaint in defense to Shafi's Employment Agreement claim. The Court disagrees.

A jury must decide whether Shafi's conduct constituted "good cause." The Employment Agreement includes Shafi's "willful and continued failure" to perform his job duties, gross misconduct, fraud, misappropriation, and dishonesty in its definition of "good cause." The Court sees no reason why the jury is not entitled to consider Braintech's evidence or arguments that Shafi made false statements and misrepresentations, or failed to fully perform his employment responsibilities, in deciding this issue.

Moreover, because Shafi fails to make arguments for the preclusion of specific evidence or defenses which Braintech might seek to introduce, the Court will not parse through Braintech's complaint to determine what, if anything, should be precluded. Shafi lumps all of the evidence and defenses referenced in Braintech's complaint together. While it may be true that certain evidence Braintech wishes to put before the jury is inadmissible, the Court has no way of determining that from Shafi's motion. The Court declines to make arguments on Shafi's behalf.

Finally, Shafi's request that the Court "exercise its discretion and refuse to permit Braintech to assert any defense in this case," is not well taken. The litigation taking place in Virginia is of little concern to this Court; the issues raised by Shafi must be decided in Virginia.

Shafi's motion in limine is **DENIED**.

IT IS ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: June 20, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on June 20, 2011.

s/Linda Vertriest
Deputy Clerk